

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 371 OF 2005

BETWEEN

Moeij Ahmed S/o Mohd. Sharif, aged about 28 years, by caste Musalman, resident of near Bus Stand Korba, Tahsil and District Korba (CG).

-----**PETITIONER****AND**

P.B. No. 747/05
Presented by, Koman
dated 22/01/05

1. The State of Chhattisgarh Through The District Magistrate Korba, Tahsil and District Korba (CG).
2. Timan Lal S/o Jarha Ram, aged about 40 years, resident of Old Basti, Korba, Tahsil and District Korba (CG).

-----**RESPONDENTS**

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

आदेश पत्रक

मामला क्रमांक ...W.P. 271/05... सन् 200

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	17.3.2005 Shri Sunil Sahu, counsel for the petitioner. Shri Pankaj Shrivastava, Panel Lawyer for the State. The petitioner has preferred this writ petition under Article 227 of the Constitution of India being aggrieved by order dated 3.1.2005 passed by learned Civil Judge Class-II, Korba in Civil Suit No.5-A/1997 whereby the application filed by the petitioner herein under Order 8 Rule 1-A of CPC was rejected. Brief facts leading to filing of this writ petition are that respondent No.2 herein filed a civil suit against the petitioner herein for arrears of rent and eviction. In that suit written statement has been filed on behalf of the petitioner herein in which he has denied the relationship of landlord and tenant between the parties. After framing of issues, evidence of the plaintiff/respondent No.2 has already been recorded and now the matter is fixed for evidence of the petitioner herein. On 28.12.2004 the petitioner herein moved an application under Order 8 Rule 1-A of CPC with a prayer that plaintiff/respondent No.2 herein has filed a copy of judgment Annexure P-1 to the suit which was passed in the matter of Amola Bai Vs. State of MP, but the site plan which was filed along with that plaint has not been produced in this case, therefore, he wants to produce that document. This application was rejected by learned trial court vide impugned order with the observation that the suit is pending since 1990, copy of judgment Ex.P-1 was produced by respondent No.2 while recording his evidence, thereafter, his evidence was closed and now the matter has been fixed for evidence of the	

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RL	defendant/petitioner herein and after taking many dates for adducing the evidence the defendant has filed this application, therefore, application is rejected. The trial court further observed that if the defendant was bonafide in filing this document then he could have filed the same earlier. I have heard learned counsel for the petitioner on admission. During the course of arguments learned counsel for the petitioner could not explain that how the site plan, which he wanted to bring on record, is relevant for the purpose of decision of this case. Moreover, learned counsel for the petitioner submitted that the petitioner is denying the relationship of landlord & tenant between the parties and the petitioner herein is in possession of suit land within his own right, as this land was allotted to him by the government and a Patta to that effect was also issued. Therefore, the question before the trial court is that whether there is a relationship of landlord and tenant between the parties or not. In the result, I am of the opinion that the petitioner has not been able to make out a case for interference by this Court under Article 227 of the Constitution of India, the petition of the petitioner is liable to be dismissed and accordingly, it is dismissed.	Sd/- L.C.Bhadoo Judge

(पीछे देखिये)

27/3/05